

1 MR. STEINBERG: Thank you.

2 DIRECT EXAMINATION

3 BY MR. STEINBERG:

4 Q. Can you tell us your name?

5 A. Officer Karen Blair.

6 Q. Officer Blair, I'm going to ask you to speak much
7 more loudly. Your speed is all right, but much more loudly
8 so we can hear you back here, okay?

9 Spell your last name for our record, please.

10 A. B-L-A-I-R.

11 Q. And what do you do for a living?

12 A. I'm a police officer.

13 Q. For whom do you work?

14 A. Columbus police.

15 Q. And how long you have been employed with Columbus
16 police?

17 A. Six and a half years.

18 Q. Before that, any police experience?

19 A. No, sir.

20 Q. And you're not in uniform today?

21 A. Correct.

22 Q. Explain why you're not wearing your uniform.

23 A. I'm on temporary assignment because I'm pregnant.
24 I'm restricted duty.

25 Q. What does restricted duty mean?



GB000169

1 A. Means I can't wear my uniform right now.

2 Q. Why is it you can't wear your uniform when you're
3 on restricted duty? Explain that to us in ten seconds.

4 A. I can't fit in it.

5 Q. Okay. All right.

6 When you wear your uniform, whether you're
7 actually on your shift or not, are there certain
8 requirements that you have?

9 A. Yes, sir.

10 Q. Okay. What are those requirements? Whenever you
11 put that uniform on, even if you're not at work, what are
12 those requirements?

13 A. As far as what?

14 Q. Well, like, if you're not at work but you're
15 wearing a uniform and somebody needs help?

16 A. I have a requirement to take action if necessary.

17 Q. When you are at work, you're on restricted duty,
18 right?

19 A. Right now currently, yes.

20 Q. Is that why you're not allowed to wear your
21 uniform right now?

22 A. Correct.

23 Q. Okay. So September 15th, 2014, you were working
24 for Columbus police then?

25 A. Yes, sir.

- 1 Q. And what shift were you working?
- 2 A. Evening midwatch.
- 3 Q. What are the hours of evening midwatch?
- 4 A. 7 p.m. to 5 a.m.
- 5 Q. And does that mean your shift would start
- 6 September 15th, at 7 p.m., and then end at 5 a.m. the next
- 7 day, the 16th?
- 8 A. Yes, sir.
- 9 Q. And what was your geographic assignment, what
- 10 precinct were you assigned to?
- 11 A. 19 Precinct on Zone 3.
- 12 Q. And tell us where that is, in what part of the
- 13 world is that?
- 14 A. West side of Columbus, Hilltop area.
- 15 Q. Okay. Do you know the boundaries of it, roughly?
- 16 A. Yes, sir.
- 17 Q. What are they?
- 18 A. We go north of Broad Street, up to Valley View on
- 19 the north side; south side goes about down to Mound Street;
- 20 and then east goes to Central; and west goes to, roughly,
- 21 Demorest.
- 22 Q. Okay. So how long had you been assigned to that
- 23 area?
- 24 A. Almost two months.
- 25 Q. And before that area, where were you assigned?

1 A. East side on 9 Precinct.

2 Q. So were you relatively familiar with the streets
3 by September 15th in that area?

4 A. Yes, sir. I'd also coached out there.

5 Q. Okay. What does that mean, coach?

6 A. When you're new, you take a coaching period and
7 you spend five weeks on a precinct at a time. I spent five
8 weeks there. That's when you, you know, you really learn an
9 area because you're being graded on where you are.

10 Q. And how were you dressed during your shift on
11 September 15th?

12 A. I was wearing the uniform of the day, which was
13 short sleeves, white shirt, my badge, duty pants, the belt.

14 Q. Okay. And were you assigned to a vehicle?

15 A. Yes, sir.

16 Q. What type of vehicle?

17 A. It was a Ford Taurus cruiser, Car 9191.

18 Q. Did it have working Visibar lights?

19 A. Yes, sir.

20 Q. And was it marked as a Columbus police cruiser?

21 A. Yes.

22 Q. Okay. So were you assigned by yourself in that
23 cruiser?

24 A. Yes. I was alone, by myself, yes.

25 Q. Okay. Now, do you remember getting a dispatch

1 about a potential burglary at 2756 Sullivant Avenue?

2 A. Yes, sir.

3 Q. And do you remember the details of that dispatch?

4 A. Yes, sir.

5 Q. If you could tell us them.

6 A. The dispatch run said there was a burglary going
7 on in-progress, said there was a male and two females, I
8 believe is what it said, were taking property out of a
9 building. One thing that stuck in my mind at the time, one
10 of the females was wearing, I believe the run said an orange
11 shirt. So I know it was a brightly colored shirt involved
12 with one of the females. And it said they were loading
13 property into a vehicle, but there was no vehicle
14 description.

15 Q. Okay. About what time of day did you get that
16 dispatch?

17 A. After ten p.m., roughly. I don't remember the
18 times.

19 Q. Okay. Was it after dark already?

20 A. Yes, sir, it was dark outside.

21 Q. And so what did you do when you got that dispatch?

22 A. Well, I was really close. I asked the dispatcher
23 to verify what the cross streets were of the dispatch run
24 because I was in the alley north of Sullivant Avenue just
25 east of Hague Avenue. And I know the buildings, how they

1 layout. On Sullivant -- there's the UDF on the corner of
2 Sullivant and Hague, then there's a little row of buildings.
3 So I asked the dispatcher what the crosses were. She said
4 Hague and Harris, which would mean it would be the building
5 next to UDF. I was behind the UDF, so I continued eastbound
6 in the alley north of Sullivant towards Harris.

7 Q. Okay. With or without lights and sirens?

8 A. Without because I was close. I didn't want to --
9 That's typically how we respond to a burglary, when you get
10 close to the location, you turn off your lights and sirens
11 because it alerts the burglars, or whatever is going on,
12 that we're pulling up.

13 Q. On a burglary run, you want to sneak up on people?

14 A. When you get close, yes.

15 Q. Okay. So did you ever run lights and sirens then
16 in this run?

17 A. On this run, no, sir.

18 Q. Okay. So tell us what happened. You get to --
19 you get to dispatch and what do you do?

20 A. After it was dispatched, I got there -- Like I
21 said, I was already in the alley. I got there moments after
22 it was dispatched. When I came toward Harris, I knew Harris
23 was a northbound street only. So when I came around the
24 corner, knowing it's a Sullivant address, I knew it would be
25 south of me, so I would have to go the wrong way on a

1 one-way to get to the address. So I stopped in the alley,
2 my car was partially on Harris Avenue. When I got there, I
3 saw a truck parked on the west side of the street facing
4 northbound.

5 Q. Okay. You said west side of the street facing
6 northbound?

7 A. Yes, sir.

8 Q. Tell us, is that off your passenger side or off
9 your driver's side?

10 A. I would have seen it through my passenger -- on my
11 passenger side. Would have been on my right from where I
12 was coming because I was north of the location.

13 Q. So off your passenger side?

14 A. Yes, sir.

15 Q. Okay. And what did you do?

16 A. Well, I knew the run said there were people
17 loading property into a vehicle. When I came up, I knew it
18 would have been that building. I saw a door directly next
19 to where this truck was parked on the building, and when I
20 looked at the vehicle, I saw two occupants, a male driver
21 and female in the passenger seat. I could see a bright --
22 it was pink or orange shirt on her, so it immediately caught
23 my attention that that was one of the descriptors in the
24 dispatch run. I knew immediately I wanted to get this
25 vehicle stopped because it looked like it was, you know, at

1 the location of the dispatched run, as it was described.

2 Q. And what happened next?

3 A. So I was in the alley. I pulled up, and I stopped
4 my car because I didn't want to go southbound in the
5 northbound only lane, so I stopped half in the alley and got
6 out of my vehicle.. And as soon as that truck saw my cruiser
7 and me get out of the car, it started to pull off into the
8 street.

9 Q. And were you already outside of your vehicle when
10 you saw that truck move?

11 A. It was fairly simultaneous. As soon as I pulled
12 up and saw what was going on, where it was, the location, I
13 got out of my car. I didn't want to be in -- I have to get
14 out and investigate. I don't want to be trapped in my car.

15 Q. At this point any other CPD officers there?

16 A. At that moment, no, sir.

17 Q. Okay. What city were you in now?

18 A. Columbus, sir.

19 Q. What state?

20 A. Ohio.

21 Q. And what county?

22 A. Franklin.

23 Q. When you get out of your vehicle, what do you do?

24 A. When I get out of my vehicle, I see the truck as
25 it's starting to pull away. I'm not directly in front of

1 the truck because I don't want to get run over. I'm kind of
2 off to the side and make it very clearly visible, Hey, stop.
3 I want you to stop, and I'm going to talk to you, so please
4 stop. I'm going to investigate this.

5 And the truck still pulled forward slowly, not
6 quickly like it was going to peel out or anything, but it
7 started to roll forward as if it didn't want to stop, but he
8 was debating whether he was going to stop. So I was in the
9 road, Hey, stop. Stop. And I walked towards the truck, and
10 as it was still rolling a little bit, I tapped on the hood
11 of the truck like, Hey, I said stop (indicating). And the
12 truck did stop.

13 Q. How many times did you ask?

14 A. I was in the roadway, I was like, Hey, stop.
15 Stop. I said stop. And I, you know, tapped on the hood
16 that last time like, I'm sorry, you're going to stop. I
17 need to talk to you.

18 Q. Were you able to see who was driving the truck at
19 that point?

20 A. Yes, sir.

21 Q. Okay. And do you see the driver of that truck in
22 this courtroom today?

23 A. Yes, sir.

24 Q. Can you point to that person and tell us what that
25 person is wearing, please?

1 A. Sir, he's right there (indicating), wearing a gray
2 suit and blue tie.

3 Q. Okay. And let's see. I see sort of two grayish
4 suits. So --

5 A. Bright blue tie, light blue.

6 Q. Bright blue.

7 Nearest or farthest from the orange binder?

8 A. Nearest to the orange binder.

9 Q. Okay.

10 MR. STEINBERG: Your Honor, I would ask that the
11 record reflect that the witness has identified the
12 defendant.

13 THE COURT: It will so reflect.

14 MR. STEINBERG: Thank you.

15 BY MR. STEINBERG:

16 Q. When did you first observe this person's face, the
17 defendant's face?

18 A. I saw his face when I pulled around the corner and
19 saw the truck.

20 Q. Okay.

21 A. That's when I saw the female passenger with the
22 bright colored shirt. I saw both of them. The way the
23 lights hit, I could see them in the truck.

24 Q. Okay. So when -- when the truck stopped, what did
25 you do?

1 A. Knowing that I was still alone and I knew that
2 more officers were responding, for officer safety reasons,
3 you don't jump in and, you know, do anything too crazy, so I
4 walked up to the passenger door and started talking with --
5 not the passenger, I'm sorry. Driver door and started
6 talking with the driver in an attempt, I guess, to stall,
7 you know, start the investigation, figure out what was going
8 on while I'm waiting for more officers to respond to assist.

9 Q. While you're waiting for more officers to come, I
10 just want to talk to you really quickly. You said for
11 officer safety reasons. Have you been trained?

12 A. Yes, sir.

13 Q. Okay. Tell us about -- very quickly about your
14 training, just generally, in terms of what you had to do to
15 become a police officer.

16 A. For Columbus you go through the Columbus Police
17 Academy. They have their own training academy. That's
18 approximately a seven month long process, takes you through
19 learning the ORC, officer safety, grounding techniques,
20 firearms, you know, everything involved in being a police
21 officer.

22 Q. Okay. ORC means what?

23 A. Ohio Revised Code.

24 Q. And you use the term officer safety. How
25 extensive has your training been in officer safety? Just

1 describe that for us.

2 A. I believe it's very extensive. We take
3 training -- we have training throughout the year, continuing
4 training, that's probably one of the biggest things that is
5 impressed upon us in the academy is how to be safe. We go
6 home safe, citizens are safe, other officers are safe.

7 Q. Okay. And when you are trained to deal with
8 specific situations, is there always an officer safety
9 component? Is that -- is that always a topic?

10 A. Yes, sir.

11 Q. Okay. All right.

12 So let's go back to -- we're waiting, you're
13 waiting for other officers to get there. How long did it
14 take for other officers to get there?

15 A. Not very long.

16 Q. What did you do while you're waiting for other
17 officers to get there?

18 A. I talked to the driver of the vehicle.

19 Q. Okay. The defendant?

20 A. Yes, sir.

21 Q. What were you talking to him about?

22 A. At that point I was trying to ask for
23 identification. I asked for his -- I asked if he had his
24 I.D. on him. He said, No. Then I asked, would you have a
25 license. Because often people tell you they don't have an

1 I.D. when they know they don't have a valid driver's
2 license. He said, Yes, I have a valid license. I said,
3 okay. Where is the actual I.D. because it's -- particularly
4 men who have, you know, pockets for wallets they almost
5 always have an I.D. on them somewhere. It's not typical
6 that people don't have some form of I.D., whether it be Ohio
7 Identification Card or whatnot. So I said, You don't have
8 your I.D. on you? He kept tell me no. So I asked one more
9 time, You don't have your physical I.D. card on you? And
10 then he paused and said, Well, maybe I do. And he reached
11 in the backseat and produced his I.D.

12 Q. And did you get his I.D. then?

13 A. I did at that time, yes, sir.

14 Q. Was it a valid Ohio license?

15 A. Yes, sir.

16 Q. Okay. So then what did you do?

17 A. Well, I was still waiting for officers to come
18 because at that time I believe Jean, Officer Jean Byrne, had
19 pulled up and went to the passenger side of the vehicle.
20 She was talking to the female, the female passenger, so I
21 was still waiting for another officer to come to my side,
22 because, knowing the circumstances, the defendant here is
23 much larger than I am, officer safety reasons I want -- you
24 know, plus one theory, I want another officer with me to
25 remove him from the vehicle. So at that time I'm still

1 waiting and I asked him more questions, where are you coming
2 from, you know, just typical things you would ask in a
3 normal traffic stop. We're trying to figure out if he
4 belonged in that place.

5 And he kept asking me, Why are you stopping me,
6 you know, what's going on. And I told him I was here --
7 We're investigating a possible burglary, and he immediately
8 said, I have nothing to do with the burglary. I said, Okay,
9 that's fine. Once we figure that out, you'll be on your
10 way, sir.

11 Q. So what are you doing? You talked about asking
12 questions about a traffic stop. Was this a traffic stop?

13 A. A traditional traffic stop, no, but in a sense, he
14 was being stopped in a vehicle and being detained, so by
15 definition, technically.

16 Q. And why were you detaining him? What was your
17 purpose?

18 A. My purpose?

19 Q. What were you trying to do?

20 A. Based on what I already had at that moment, I
21 believed he was involved in a possible burglary. There was
22 a vehicle parked next to the building I knew was involved.
23 There was a door right there as described. The female in
24 the passenger seat with the brightly colored shirt. It
25 was -- there was a male in the dispatch run, the timing of

1 it because I knew I was so close, you know, it wasn't like
2 we had a suspect with that description that was dispatched
3 would have had time, much time to get away. I believed he
4 was involved in the burglary in some way at that time.

5 Q. And what did you want to do at that point?

6 A. I wanted to remove him from the vehicle and remove
7 him from the passenger to separate, you know, possible
8 suspects, witnesses, separate him so I could interview him
9 separately from the female and she would be interviewed
10 separately and we could investigate.

11 One of the things the run said is they were
12 removing property from the building. I wanted to figure out
13 is there some large piece of property in this truck, you
14 know, the bed of the truck that would have been related,
15 that would have tied it together, just something that would
16 have confirmed it. And you get ahold of the witness and
17 say, Hey, is this the suspect you saw come out of the
18 building.

19 Q. And did you then -- Officer Byrne gets there,
20 right?

21 A. Yes, sir.

22 Q. How long after you got there, would you say did
23 Officer Byrne get there?

24 A. I wouldn't say it was even a minute. It was
25 fairly short. It was pretty quick.

1 Q. What's Officer Byrne's first name?

2 A. Jean Byrne.

3 Q. Jean Byrne, okay. So she gets there. And do you
4 ask the defendant to get out of the vehicle when she gets
5 there or do you wait?

6 A. I wait.

7 Q. Okay. Why is that?

8 A. Because she was on the passenger side dealing with
9 the passenger. And so we had two possible suspects with two
10 officers, and knowing, like I said, Officer Phillips -- the
11 defendant's side here, I was waiting to have another officer
12 with me to remove him from the car.

13 Q. And did somebody else come?

14 A. Yes, sir.

15 Q. How long after Officer Byrne got there did another
16 officer get there?

17 A. It wasn't very long. Again, maybe an additional
18 minute at most, maybe, fairly quick.

19 Q. What were you doing while you're waiting for that
20 officer?

21 A. Just talking with the defendant.

22 Q. So can you represent what the nature of the
23 conversation was?

24 A. That was just a part where I was asking him for
25 identification and he asked me why we were there. I told

1 him we were investigating a possible burglary. That was
2 about the extent of our conversation.

3 Q. You didn't ask him any questions about the
4 burglary at that time, right?

5 A. No, sir.

6 Q. Why wouldn't you ask him questions about the
7 burglary while he's sitting next to this other woman?

8 A. We have a possible suspect/witness next to him,
9 and the more information I gave him, then he can produce,
10 you know, tailor-made answers based on what he's going to be
11 asked later, you know, giving up too much information that
12 can taint his answers later or the person next to him.

13 Q. And have you had experience in doing this kind of
14 street-side investigation?

15 A. Yes.

16 Q. And have you had training in doing it?

17 A. Yes, sir.

18 Q. What does your training and experience tell you to
19 do when you have two possible suspects?

20 A. You immediately separate them. You don't allow
21 them to talk to each other. You know, I certainly didn't
22 want him to turn around and say something pertinent to the
23 burglary or, you know, you know, give up some kind of
24 information where their stories would be skewed, you know, a
25 chance to be dishonest or whatnot.

1 Q. Is separation, in your experience, a reliable
2 truth detection device?

3 A. It can be. I mean, it certainly can be because
4 you want to separate them from the scene or separate them
5 from that situation, and get them into a position where
6 they're more likely to be honest with you because they don't
7 know what you know. You know, they're in a different
8 environment. They're not, you know -- For example; he was
9 sitting on a curb or in the backseat of my car versus inside
10 of his truck where it was his, his place. I would be able
11 to get more honest answers out of him.

12 Q. And so who was the next officer after
13 Officer Byrne came?

14 A. Officer Adam Groves.

15 Q. Okay. And tell us what happened then.

16 A. He walked up to the driver's side where I was
17 standing and I told Officer Groves, We need to remove him
18 from the car.

19 Q. When you say "him" you're talking about --

20 A. The defendant, yes, sir, because
21 Officer Jean Byrne had removed the female from the truck on
22 the passenger side, and I could see that. So I wanted to
23 remove him from the truck on our side.

24 And in the procedure to remove him from the
25 vehicle, pat him down, separate him from the vehicle, and

1 then be able to, you know, question from there.

2 Q. Pat down, what does that mean?

3 A. A pat down is just quick search on the outside --
4 search, I guess is -- more in depth word of it, but on the
5 outside of clothing searching for weapons only, you know, a
6 gun, a giant knife, something that could hurt me or him or
7 another officer.

8 Q. And have you been trained to do this?

9 A. Yes, sir.

10 Q. Okay. And why do you do this?

11 A. Well, in this situation, it's, you know, I'm
12 looking at a possible felony. It's known that when people
13 commit felonies, they typically carry weapons on them.
14 There's a chance if he is involved in the burglary, he
15 didn't want to go to jail, and he's going to, you know,
16 possibly he's going to do whatever means necessary to, you
17 know, keep that from happening if he has a weapon. It could
18 mean hurting me or one of my fellow officers or another
19 citizen, himself.

20 Q. Are you trained in how to take someone out of a
21 vehicle?

22 A. Yes, sir.

23 Q. Okay. And in that training, how often did you
24 hear the term "officer safety"?

25 A. That is the basis of removing someone from the

1 vehicle, especially in -- typically in Columbus police we
2 have techniques to remove someone that makes it the safest
3 way possible for them and us.

4 Q. And how many times did you have to do that in
5 training? Did you have to be told, Hey, remember to pat
6 down. Remember to pat down. Remember to pat down?

7 A. All the time.

8 Q. All right. Is it fair to say that gets drilled?

9 A. Yes, sir.

10 Q. Okay. So you have Officer Groves there, what do
11 you do?

12 A. It's Officer Groves, and we need to get him out of
13 the car. We tell the defendant, We need you to step out of
14 the car. He was hesitant, just as he was when I asked for
15 his I.D. You could tell he was debating whether he was
16 going to or not. So...

17 Q. How do you tell that?

18 A. Huh?

19 Q. How could you tell that?

20 A. The way he was kind of looking away from me, you
21 could tell in his face he was thinking about his answers.

22 MR. HEMMINGER: Objection.

23 THE COURT: You know what, let's leave it at that
24 and go on to another subject. I think I understand the
25 nature of the objection.

1 MR. STEINBERG: Okay.

2 BY MR. STEINBERG:

3 Q. What did you see the defendant doing?

4 A. He kept looking forward. You know, typically when
5 you're asked to get out of the vehicle and you have no
6 problems with it, you would step out of the vehicle. But he
7 was hesitant. He didn't want to immediately get out. So I
8 physically opened the truck door for him and said, Go ahead
9 and step out. And, again, he was still hesitant but he did
10 seem to put his left leg out of the truck and partially
11 stood where he was, still leaning against the truck and, you
12 know, truck seat.

13 Q. Okay.

14 A. And kind of stood there. And Officer Groves said,
15 No, come out of the truck, and grabbed his left arm in the
16 escort position to guide him out of the car. When we,
17 Columbus police, pulls somebody out of the car, we guide
18 them out. You know, there's no force to it. You just guide
19 them because typically people don't know, you know, typical
20 person steps out of the vehicle, they step and want to face
21 you. We want them to face away from us. We kind of guide
22 them in a position towards the doorjamb to be able to put
23 their hands behind their back. Officer Groves grabbed his
24 left arm and attempted to do that.

25 Q. Let me ask you a question: Somebody is perfectly

1 willing to walk out of their vehicle, and you want to pat
2 them down.

3 A. Uh-huh.

4 Q. Put hands on them automatically to guide them?

5 A. Typically, yes, in some fashion. You know, it
6 doesn't mean you're, you know, grabbing them. It could just
7 mean, you know, Go ahead and turn around for me because
8 I'm -- you know, if I'm going to pat them down, I'm going to
9 be touching them regardless, so it's more guiding them,
10 facing them away from me.

11 Q. Who was touching the defendant at that point?

12 A. Officer Groves was.

13 Q. Where were you?

14 A. I was right next to him.

15 Q. Okay. Were you able to see everyone, everything
16 that was going on?

17 A. Yes, sir.

18 Q. Okay. So what happened next?

19 A. As soon as Officer Groves touched his -- the
20 defendant's left arm, the defendant immediately pulled his
21 left arm towards his chest and grabbed the support handle on
22 the truck, the one that is up on the door frame. He grabbed
23 that with his right hand and held on with a really tight
24 grip.

25 Q. And were you still giving the defendant verbal

1 commands at this point?

2 A. Yes, sir, absolutely.

3 Q. And what were you telling the defendant?

4 A. Telling him to step out of the vehicle. At that
5 point, I realized when he was holding onto the handle he
6 wasn't going to let go. And I was telling him, Let go. Let
7 go. Let go. Let go. And Officer Groves was doing the same
8 thing.

9 Q. And what was the defendant doing?

10 A. He was, like, tightening his grip and trying to
11 pull himself towards his truck. He was trying to get back
12 in the truck.

13 Q. So what happened?

14 A. So at that point, I believe it was Officer Cazan
15 came up, and he assisted Officer Groves with the defendant's
16 left side. And I was still in the doorjamb trying to get
17 the defendant's right hand off of the handle.

18 Q. Were you actually touching the defendant?

19 A. Yes, sir. Yes, sir.

20 Q. And Officer Cazan, where was he?

21 A. He was on with Groves, Officer Groves, on the left
22 arm.

23 Q. What were Officer Groves and Cazan doing?

24 A. Trying to pull him out of the truck.

25 Q. What were you doing?

1 A. I was -- when I realized the defendant had, what I
2 believe was the tightest grip possible, on the handle, I
3 realized I wasn't going to be able to pull his hand off. I
4 was trying to pry his fingers off of the handle.

5 Q. Were you telling him to do anything at that point?

6 A. We were telling him to let go and get out of the
7 truck.

8 Q. Was he complying?

9 A. No, sir.

10 Q. Was the defendant saying anything?

11 A. At that point, I believe is when he started to
12 say, he kept saying, I'm a state trooper. I'm a state
13 trooper is what I remember, and that was when, during this
14 we were, you know -- I was thinking, If you're a state
15 trooper, you know not to do this. You know the procedure,
16 you know, let go, come out.

17 Q. That's just what you were thinking?

18 A. Yes.

19 Q. You didn't say that to him?

20 A. No, sir.

21 Q. Did you respond to him -- Anything the defendant
22 is saying, did you respond to it that point?

23 A. At that point we were only giving him verbal
24 instructions of what we wanted him to do.

25 Q. So what happened?

1 A. So at that point, after, I mean, several moments
2 went by where we were in this position with Officer Cazan
3 and Groves were pulling the defendant away from the vehicle
4 and he still had a hold of that handle, eventually I was
5 able to get all his fingers off at once. He let go of his
6 grip on the handle. From there, a few moments went by and
7 the defendant was taken to the ground by Officer Cazan and
8 Groves.

9 Q. Okay. Can you describe how that happened?

10 A. I believe Officer Cazan -- When they're trying to
11 get him to the ground, he still wouldn't go, so
12 Officer Cazan, I believe, picked him up by his legs and put
13 him on the ground.

14 Q. Is there a term the Columbus police use for that
15 or that you use or not?

16 A. Double leg takedown is often what you would call
17 it when you pick someone up by both of their legs and take
18 the ground stability off and get them placed to the ground.
19 There was -- both of them -- it took both of them to make
20 that happen. Officer Groves, I believe, you know, was still
21 on the arm, and Cazan grabbed his legs and they placed him
22 on the ground.

23 Q. Now, the defendant, why is it you wanted to have
24 the defendant exit the vehicle again?

25 A. I was still investigating the burglary. And, like

1 I said, at this point, I still did not have the opportunity
2 to investigate the building, check the building to see if it
3 was secured. So this was kind of a fast-evolving situation.

4 MR. STEINBERG: I'm going to ask you to slow down
5 and speak a little more loudly.

6 A. I was still trying to figure out, I need to get
7 him detained, possible suspects detained so other officers
8 and myself could, you know, search the building, you know,
9 check to see if that door was unlocked, the other doors. So
10 at that point, we were still trying to get him detained to
11 separate him from the witness, find out if he had any, you
12 know, weapons on him. I still believed he was involved in
13 the burglary.

14 Q. And give me the order of necessity of what you
15 need to do, that is, you need to get him out of the vehicle,
16 right?

17 A. Yes, sir.

18 Q. And then what do you need to do immediately after
19 he gets out of the vehicle, in your mind?

20 A. I need to check him for weapons and detain him
21 somewhere with -- either with another officer on a curb
22 maybe or in the back of a cruiser, just somewhere he can't
23 flee, where he'll be spoken to later.

24 Q. Okay. And detain him to do what with him?

25 A. To investigate the burglary.

1 Q. Okay. And specifically, the method of
2 investigating the burglary with him would be to what,
3 interview him?

4 A. Interview him.

5 Q. Okay. And how did your larger purpose of securing
6 the building, investigating the burglary, how did the
7 defendant's behavior at the side of his truck affect that
8 larger purpose?

9 A. Well, initially when I, you know, approached, he
10 kept doing everything he could do to delay my response. You
11 know, if this had been a smooth operation here, I would have
12 been able to go up, detain him, check the building.

13 MR. HEMMINGER: Objection.

14 MR. STEINBERG: Can we approach?

15 THE COURT: Sure.

16 - - -

17 The following discussion was held at the bench out
18 of the hearing of the jury:

19 MR. STEINBERG: It's pure speculation.

20 THE COURT: I got that, but I don't remember what
21 the question -- I mean you're concerned about her answer.

22 MR. HEMMINGER: Yeah.

23 MR. STEINBERG: I don't think it's an objection to
24 the question, though.

25 MR. HEMMINGER: No. Right.

1 MR. STEINBERG: Okay. Let me redirect.

2 THE COURT: Yeah.

3 MR. STEINBERG: I don't remember exactly the
4 question, but I know where I wanted to go. I'll redirect
5 the question.

6 THE COURT: Yeah. Thank you.

7 - - -

8 THE COURT: Mr. Steinberg has agreed to rephrase.

9 MR. STEINBERG: Thank you.

10 BY MR. STEINBERG:

11 Q. Officer Blair, specifically, you had a purpose of
12 investigating the burglary, correct?

13 A. Yes, sir.

14 Q. The defendant's behavior at his truck, when he
15 wouldn't come out of his truck, how -- what affect did that
16 have on your overall purpose, your overall investigation?

17 A. Most importantly, it delayed my response,
18 investigating -- to be able to investigate the burglary,
19 because instead of being able to secure the building, I was
20 busy tied up struggling with him, basically.

21 Q. And what about other officers at the scene, were
22 they able to continue the investigation immediately or what
23 did they have to do?

24 A. Due to struggling with the defendant, they were
25 coming to assist us to detain the defendant instead of being

1 able to respond to the building.

2 Q. And were you present when the defendant had to be
3 taken to the ground?

4 A. Yes, sir.

5 Q. Okay. So how long was he on the ground?

6 A. It was -- I mean, when there's a struggle, it's
7 hard to tell time. The time, it always seems like it lasts
8 forever. I would say, realistically, probably a minute,
9 which is a fairly long time.

10 Q. Were you part of that struggle?

11 A. Yes, sir.

12 Q. What were you doing?

13 A. I was trying to handcuff the defendant.

14 Q. Okay. And who else was with you Columbus police
15 wise?

16 A. There was Officer Groves and Officer Cazan,
17 Jean Byrne came around the side of the truck where we were
18 at some point. I believe Officer McClain came up and was
19 part of that at some point.

20 Q. And what was the defendant doing while you were
21 trying to handcuff him?

22 A. He was struggling. He was pulling his hands
23 underneath of him so we couldn't handcuff him and it -- I'm
24 not sure if he was still trying to get back in the truck,
25 but he was not complying with our commands to -- You know,

1 we kept saying, Give us your hands. Give us your hands. He
2 would not. He would still not let go of his arms.

3 Q. And what did you do then at that point?

4 A. I was trying to help the other officers. I was
5 trying to grab, you know, get both of his arms together
6 behind his back.

7 Q. Were you finally able to do that?

8 A. While we were on the ground, the defendant was
9 still not complying. Officer Groves, he deployed his Mace
10 in the face of the defendant. That assisted with pain
11 compliance. With all of us together, we were able to bring
12 the defendant's hands behind his back and handcuff him.

13 Q. Okay. And then what happened?

14 A. From there, once he was handcuffed, he was placed
15 in the rear of the cruiser.

16 MR. STEINBERG: Your Honor, may I approach the
17 witness?

18 THE COURT: Yes, you may.

19 BY MR. STEINBERG:

20 Q. I'm going to show you what I've marked as
21 State's Exhibit A. You have State's Exhibit A sitting in
22 front of you at the table, right?

23 A. Yeah.

24 Q. What is State's Exhibit A?

25 A. It's a CD.

1 Q. And have you had a chance to see what that CD
2 contains?

3 A. Yes, sir.

4 Q. And what does State's Exhibit A contain?

5 A. It contains video footage from CPD wagon 198 from
6 the point where they responded. It shows Officer
7 Jean Byrne's cruiser, and then it shows the defendant's
8 truck. And you can't see my cruiser because of the
9 lighting. And then it shows Officer Groves' car next to
10 Jean Byrne's car.

11 Q. Okay. If I could see that.

12 So I'm going to put State's Exhibit A in our video
13 player. Are you able to see our video player?

14 A. Yes.

15 Q. Okay. I'm going to play for you
16 State's Exhibit A, part of it.

17 Before I do, I have a couple of questions,
18 generally. How long have you been with the Columbus Police
19 Department?

20 A. Approximately six and a half years.

21 Q. And have you learned about what the cruiser video
22 system is?

23 A. Yes, sir.

24 Q. Okay. What is the cruiser video system?

25 A. Our system is called Arbitrator. It's a camera in

1 the cruiser, and it activates with certain things and
2 records where the camera is facing along with the audio from
3 a body mike.

4 Q. Can you speak a little more loudly?

5 A. Huh?

6 Q. I was going to ask you to speak more loudly.

7 A. Yes, sir. Sorry.

8 Q. So your assignment was what on the 15th of
9 December -- September last year?

10 A. I was cruiser 9191.

11 Q. Okay. Other officers who responded, were they
12 from your precinct?

13 A. No, sir.

14 Q. Where were they from?

15 A. This were from the community response team, CRT.

16 Q. Okay. Did your cruiser have cruiser video?

17 A. It had a camera system on it, yes.

18 Q. Okay. What we're going to look at is not from
19 your cruiser?

20 A. No, sir.

21 Q. When does cruiser video activate? When does it
22 activate itself?

23 A. It comes on if you're involved in an accident, if
24 you turn on -- most of the time it comes on when you turn on
25 the lights, the beacon.

GB000200

1 Q. Did you turn on your beacons that night?

2 A. No, sir.

3 Q. Okay. Are you able to see State's Exhibit A in
4 our video player?

5 A. Yes, sir.

6 Q. Is that what you observed previously?

7 A. Yes, sir.

8 Q. Okay. All right. Officer Blair, I've stopped it
9 at 22:47:21. What are we looking at in the 22:47:21 view?

10 A. What you see here is you see Officer Jean Byrne's
11 car right near to the left, 7314.

12 Q. If you could approach our screen and just show us
13 what you're talking about.

14 A. That right here is Officer Jean Byrne's car, 7314.
15 I believe this is Officer Groves, 7315. This right here is
16 the defendant's vehicle.

17 Q. Where is the defendant's vehicle?

18 A. The black truck right here (indicating).

19 Q. Okay.

20 A. My cruiser is out of the shot here. I would be
21 facing about right here (indicating) --

22 Q. Okay.

23 A. -- from the alley.

24 Q. Okay. If you could, I'm going to play some more.

25 So 22:47:52, where is Officer Byrne?

- 1 A. Right there, sir (indicating).
- 2 Q. Okay. And is there another person next to her?
- 3 A. The female is the female passenger from the truck.
- 4 Q. Okay. That was the person who was doing -- where
- 5 was that person?
- 6 A. At what point?
- 7 Q. When you first arrived.
- 8 A. When I first arrived she was the front passenger
- 9 of the vehicle.
- 10 Q. Okay. And there's somebody sort of right in the
- 11 middle of the screen. Who is that?
- 12 A. I believe this would be Officer Cazan.
- 13 Q. Okay.
- 14 (Video played.)
- 15 Q. 22:48:12, what did we just see from the female
- 16 passenger?
- 17 A. The female passenger runs away from the scene.
- 18 Q. Okay. And what's going on, sort of in the far
- 19 left-hand side of the screen?
- 20 A. Right here is the struggle with the defendant.
- 21 Q. Okay.
- 22 (Video played.)
- 23 Q. 22:49:20, I've stopped it. Do you see the
- 24 defendant here?
- 25 A. Yes, sir.

- 1 Q. Okay. And who is with him?
- 2 A. It would be Officer Cazan or Officer Groves.
- 3 Q. And what's going on here?
- 4 A. They're about to place him in the rear of 7214.
- 5 Q. 22:51:08, what just happened?
- 6 A. Defendant was placed in the rear of 7214.
- 7 Q. Okay. Do you see the burglary location here?
- 8 A. You can't tell in the video, but it's this
- 9 building right here (indicating).
- 10 Q. Okay. If you want to grab your seat now. When
- 11 you took the defendant's license from him, did you have a
- 12 chance to actually run it?
- 13 A. At that moment, no.
- 14 Q. Okay. When did you end up running the license?
- 15 A. I believe Officer Jean Byrne did. I handed it to
- 16 her, who sat in the 7314. An officer sat in that driver
- 17 seat, and I handed it to them and it was run on that
- 18 computer initially.
- 19 Q. Was that after the defendant had been placed into
- 20 a cruiser?
- 21 A. Yes, sir.
- 22 Q. Did you ever run the defendant's license plate?
- 23 A. Yes, sir. It would have been ran.
- 24 Q. When did you do that, do you know?
- 25 A. It would have been this same time with the

1 license.

2 Q. Okay. Was it after the defendant was in the
3 cruiser?

4 A. Yes, sir.

5 Q. So did you have a chance to see the defendant
6 after he had been through -- after he had fought with
7 Columbus police?

8 A. Yes, sir.

9 Q. Okay. And I'm going to show you several exhibits.
10 MR. STEINBERG: Your Honor, may I approach the
11 witness?

12 THE COURT: Yes, you may.

13 MR. STEINBERG: Thanks. Thank you.

14 BY MR. STEINBERG:

15 Q. What would you say -- How would you describe the
16 defendant's condition after he had fought with the police?

17 A. He had some scratches and the dirt on his face and
18 Mace from where he had been Maced. I believe he had
19 scratches on his knee.

20 Q. When somebody is Maced, is there a procedure you
21 have to follow afterwards?

22 A. Yes, sir. You call a medic to respond to scene
23 and they pour saline on the face to wash away the Mace.

24 Q. Did that happen?

25 A. Yes, sir.

1 Q. Okay. So I'm going to show you State's Exhibits B
2 through I. If you could go through B through I, and just
3 look up at me when you're done. What are State's Exhibits B
4 through I?

5 A. They're photographs of the injuries sustained by
6 the defendant.

7 Q. Okay. Are they true and accurate as you recall
8 them?

9 A. Yes, sir.

10 Q. Okay. I want to go back to one thing on the
11 video.

12 All right. We're at 22:48:05. If you could come
13 up here. Now, do you see Officer Byrne?

14 A. Yes, sir.

15 Q. Show us where Officer Byrne is here.

16 A. (Pointing.)

17 Q. And who is with Officer Byrne right there?

18 A. That's the suspect, female.

19 Q. Okay. And it looks like her clothes are dark?

20 A. Yes. It was a jacket.

21 Q. Underneath that jacket, what was she wearing?

22 A. It was a pink or orange shirt. I don't remember
23 the color, but I remember the dispatch run said it was pink
24 and it was orange or vice versa. I just remember it being a
25 bright color and it was nighttime.

1 Q. That's what you saw underneath that jacket?

2 A. Yes, sir.

3 Q. Was that person wearing the jacket inside the
4 vehicle?

5 A. Yes, sir. It was -- but it was open.

6 Q. Okay. You can take your seat again.

7 So you ended up arresting the defendant, correct?

8 A. Yes, sir.

9 Q. Okay. What did you arrest the defendant for?

10 A. Obstructing official business.

11 Q. And did you learn about whether he was involved in
12 the burglary?

13 A. We were never able to tie him to the burglary.

14 Q. Okay. If I can have one minute.

15 I want to just clarify something regarding the
16 license plate. Did you run it when you first arrived?

17 A. No, sir.

18 Q. When did you actually run the plate?

19 A. After the defendant was placed in the rear of the
20 cruiser we were able to slow things down and run his
21 identification and the license plate on the truck.

22 Q. Okay.

23 MR. STEINBERG: Your Honor, I don't have any other
24 questions for this witness at this time. Thank you.

25 THE COURT: I've got a question for our jury. Are

1 you okay to proceed to cross?

2 JUROR WARKENTIN: Yes.

3 THE COURT: Is that okay?

4 JUROR WARKENTIN: Yes.

5 THE COURT: I'm ready for cross-examination.

6 Thank you very much.

7 - - -

8 CROSS-EXAMINATION

9 BY MR. HEMMINGER:

10 Q. Officer Blair, I'm going to start back in the
11 beginning here. You responded to this location because you
12 had received a call about an alleged burglary; is that
13 correct?

14 A. Yes, sir.

15 Q. That's at 3756 Sullivant Avenue?

16 A. Yes, sir.

17 Q. Okay. Do you know how the police found out, or
18 how they received a call about this burglary?

19 A. There was a caller who called in and said they
20 were watching this go on.

21 Q. Through the course of your preparations, have you
22 listened at all to the call from the caller?

23 A. No. But I have a -- I read the -- we use Patrol
24 View, which provides the shorthand which the dispatchers
25 provide.

1 Q. So you have read over, kind of, the transcript of
2 the call --

3 A. Yes.

4 Q. -- for lack of a better term, I guess.

5 Now, when you arrived, you arrived off of -- bear
6 with me for one minute here. I've actually got a picture, I
7 believe, I'm going to use.

8 MR. HEMMINGER: Your Honor, may I approach the
9 witness?

10 THE COURT: Yes, you may.

11 BY MR. HEMMINGER:

12 Q. Officer Blair, do you recognize what would be
13 depicted in this photograph?

14 MR. STEINBERG: Counsel, can I see that?

15 MR. HEMMINGER: I'm sorry. Yes. Absolutely.

16 BY MR. HEMMINGER:

17 Q. What do you recognize the contents of this
18 photograph to be?

19 A. This looks like here to be about the parking lot
20 of UDF. I would have been coming from the alley. I would
21 have been right on the other side of this tree line. I
22 believe this would have been the dispatch location.

23 Q. Okay. So the building -- Can you describe for us
24 what you mean is the dispatch location?

25 A. This right here would have been the door to the --

1 the front door to the dispatch location.

2 Q. The location of the alleged burglary; is that what
3 you mean?

4 A. The front door, yes.

5 Q. Does this picture fairly and accurately represent
6 the scene as it appeared to you on September 15th --

7 A. It was --

8 Q. -- 2014?

9 A. It was nighttime and I was coming from here, yes,
10 I believe so.

11 Q. Other than the daylight hours?

12 A. Yes.

13 MR. HEMMINGER: Your Honor, request to publish
14 this so the jury can see it?

15 THE COURT: Sure.

16 BY MR. HEMMINGER:

17 Q. Officer, are you able to see this photograph from
18 that location?

19 A. Yes, sir.

20 Q. Okay. My hope is that the jury can see it as
21 well. Okay.

22 Officer Blair, when you approached the location of
23 the alleged burglary, the 756, I believe you were just
24 describing to me how you approached. Can you explain that
25 for us again?

1 A. Yes, sir. I was coming from the alley just north
2 of Sullivant. Right where that tree line is on the north
3 side of that building, there's an alley that comes --

4 THE COURT: Would you like her to approach the
5 photo?

6 MR. HEMMINGER: Sure. Maybe we can do that. That
7 would be the best way.

8 THE COURT: I think so.

9 A. I believe this right here is about where the alley
10 is. I would have been coming from this vicinity and I came
11 this way, and where I turned here, I knew Harris was
12 northbound only, so I stopped right about here (indicating).

13 Q. Do you see the alley actually depicted in this
14 photograph?

15 A. No because of a tree. That might be it on the
16 other side, the daylight, and angle. I think the trees were
17 there. It's really close to the building. It's fairly
18 close.

19 Q. Okay. Are you testifying that the alley is
20 between that -- the building at 2756 and the house, or that
21 the alley is behind the house?

22 A. I'm pretty sure it's right here. I believe this
23 is the next road up.

24 Q. Okay. Bear with me one moment there,
25 Officer Blair.

1 Officer Blair, I'm going to show you now what I've
2 marked as Exhibit B. Do you recognize the contents of
3 Exhibit B?

4 A. Yes, sir. This -- I believe this right here is
5 still the alley that comes from UDF. There's a small road
6 that goes right next to these buildings, and that's where I
7 came from.

8 Q. So you believe you drove your vehicle out between
9 this building and that house?

10 A. I believe so, because I -- I know there's a
11 loading area for the building, the businesses. Right next
12 to the UDF there's -- there's another -- I believe there's
13 another street there that comes from directly behind the
14 UDF.

15 Q. Okay. The alleyway depicted in Exhibit B is the
16 alleyway you pulled out of onto Harris Avenue?

17 A. You saying from here? I don't remember -- I
18 honestly don't recall this building, this house here. I
19 remember being close to the building here because when I
20 came, I could see the truck parked here.

21 Q. Okay. I think you can go back to the witness
22 stand, actually, for right now.

23 Do you still patrol this area of town?

24 A. Yes, sir. Not currently, but, yes, sir.

25 Q. How long did you patrol this area?

1 A. I took that assignment in July.

2 Q. When you pulled off the alley onto Harris, did
3 you -- did you stop or did you pull straight out onto
4 Harris Avenue?

5 A. I stopped and I canted my car so I was half in the
6 alley, half in the street.

7 Q. And when you're responding to this call, are you
8 listening to dispatch?

9 A. Yes, sir. It's always going on in my ear.

10 Q. Always going on in your ear? What is -- what was
11 dispatch telling you as you were approaching the location?

12 A. I had asked the dispatch what the cross streets
13 were, and they told me Hague and Harris. And not much was
14 going on from then until when I pulled up.

15 Q. Officer Blair, dispatch also gave you a
16 description of the suspects, did they not?

17 A. I believe it said a male and a couple females.
18 And, like I said, one of the females was described as
19 wearing a pink or orange shirt.

20 Q. Okay.

21 MR. HEMMINGER: Your Honor, at this time, I'd like
22 to play the recording of the call about the burglary, which
23 was provided in discovery to the defense from the
24 prosecution.

25 (Audio recording played.)

1 MR. HEMMINGER: For the record, the audio CD
2 containing the burglary call has been marked for purpose of
3 identification as Defendant's Exhibit C.

4 MR. STEINBERG: Your Honor, I'd just ask if we
5 could allow the defendant to rename his exhibits with
6 numbers corresponding --

7 THE COURT: Do you mind doing that?

8 MR. HEMMINGER: No. I have no problem with that.
9 I apologize, I'm used to beings letters.

10 So the first exhibit would be Exhibit 1, and then
11 what I identified as Exhibit B previously will be Exhibit 2.
12 The audio tape of the burglary, which was just played, is
13 Exhibit 3.

14 Next, Your Honor, identified as Exhibit 4 is the
15 audio recording of the dispatch, which Officer Blair has
16 testified she listened to and was provided in discovery from
17 the prosecution.

18 Permission to play, Your Honor?

19 THE COURT: Yes.

20 BY MR. HEMMINGER:

21 There are four recordings on this disk marked as
22 Exhibit 4. First is 22:44:22, that being the time. I'm
23 going to pause this for just a minute.

24 Officer Blair, earlier you testified that in your
25 conversation with dispatch, you asked what the cross roads

1 were, correct?

2 A. Yes, sir.

3 Q. Did we just hear your voice on this?

4 A. Yes, sir.

5 Q. That was a conversation then between you and the
6 dispatch operator, correct?

7 A. Yes, sir.

8 Q. That was the second recording on this tape. It is
9 identified as 22:45:16. Third recording of audio dispatch
10 22:45:32, goes in numeric sequence.

11 Officer Blair, did you just hear that audiotape?

12 A. Yes, sir.

13 Q. Beginning of the section I just played, dispatch
14 advised they are all back inside. You recall hearing that
15 from dispatch?

16 A. On the video here, yes, but not at the time.

17 Q. Okay. Just a few minutes ago, you also testified
18 that you never ran defendant's plates until after he had
19 been arrested and when you were running his I.D.

20 A. I didn't run the plate on the computer; that was
21 me telling dispatch what I had.

22 Q. Okay. So you had already reported his plates to
23 dispatch?

24 A. Yes, sir.

25 Q. What's the point of that?

1 A. When I walk towards the vehicle, I identify the
2 vehicle as much as I can with a plate, just in case the
3 vehicle fled, or something happened, it would be recorded
4 what the plate was.

5 Q. Okay. So law enforcement knows the plates, the
6 identity of the vehicle, the identity of who the vehicle is
7 registered to, correct?

8 A. Yes, sir.

9 Q. And the fourth recording marked at 22:46:15. That
10 was, again, Edward John Young. What is that in reference
11 to, Officer Blair?

12 A. Be the alphabet letters at the beginning of the
13 license plate, EJY.

14 Q. So at this point in time, as you're responding to
15 the call and you arrived on-scene, you first noticed
16 defendant's vehicle. You already obtained his license plate
17 information, correct?

18 A. I have -- I've aired it, but don't have the
19 information behind the license plate. At that moment it's
20 just letters and numbers.

21 Q. Fair enough. But dispatch would then have his
22 information, so would law enforcement, as you just
23 testified, so they're able to identify the individual,
24 correct?

25 A. Correct.

1 Q. When you arrived on-scene, is it important to
2 listen to dispatch in order to stay advised of the
3 situation?

4 A. Yes, sir, as much as possible.

5 Q. Okay. Earlier you testified that the suspects
6 were a -- I'm sorry. What was your testimony earlier about
7 the suspects?

8 A. I believe at the time I had -- what I translated
9 as I was pulling up. Like I said, this went really quick.
10 I was looking for a male and two females.

11 Q. So you would agree, listening to the conversation
12 between you and the dispatch operator, that the suspects
13 were identified to you as two white males, one with a gray
14 coat, one black female with an orange wrap on her head?

15 A. Yes, sir. And that is often incorrect when we get
16 information. Often when we are given information and
17 descriptions, it's often incorrect. You know, when they say
18 male and female, could be a group of people, could be more
19 than that, but yes, that is what they said on the radio.

20 Q. It's often incorrect. Did you not just testify
21 that what legitimized your stop and detention of the
22 defendant is that he matched the description of the
23 suspects?

24 A. There was a male and female in the vehicle that
25 had on the orange, that was what -- what was in my head is

1 there was orange. And here, yes, they say it was a head
2 wrap, but at that moment, when it was evolving, I heard
3 orange and I saw in the vehicle, a bright orange or pink
4 shirt. And I definitely believe that could be involved with
5 the burglary.

6 Q. Female passenger was wearing a pink shirt; isn't
7 that correct?

8 A. Yes, sir, ended up being pink, but it was
9 nighttime.

10 Q. Do you remember the color of the shirt that you
11 wrote in your report regarding this incident?

12 A. I believe the dispatch run said she was wearing
13 orange, and she ended up wearing a pink shirt when she was
14 pulled from the vehicle.

15 Q. And your summary of this incident, you confirmed
16 it's a pink shirt that the female passenger of Dale's truck
17 was wearing, correct?

18 A. Yes, sir, at nighttime pink and orange are very
19 similar.

20 Q. Okay. But your testimony here today is that she
21 was either wearing a pink shirt or orange shirt, and the
22 reality is she had a pink shirt on?

23 A. Yes, sir, she had a pink shirt on.

24 Q. The female passenger was white, correct?

25 A. Yes, sir.

1 Q. Okay. So in the truck there's a white female
2 wearing a pink shirt and the suspect is a black female with
3 an orange wrap on her head, correct?

4 A. Yes, sir. Upon hearing the details, description
5 slowed down, yes, sir.

6 Q. And the male suspect, according to the
7 conversation with you in dispatch, is a white male or two
8 white males. Defendant is a black male; is that correct?

9 A. Looking at him I would not necessarily call him
10 black.

11 Q. When you arrested him that night, what was -- what
12 was he identified as?

13 A. Whatever it would have said on his license.

14 Q. Officer Blair, I'm now going to show you what's
15 been marked for purpose of identification as
16 Defendant's Exhibit 5. You recognize the individual
17 depicted in this photograph?

18 A. Yes, sir.

19 Q. Can you see the marks, scars or scrapes on his
20 face?

21 A. On the left side, yes.

22 Q. Earlier you testified about how Mace scraped his
23 face or he had scrapes when you described his injuries, do
24 the marks in that photograph reflect the marks that you saw
25 on that day?

1 A. They look more prominent there.

2 Q. They look more prominent there, okay. Is that
3 photograph how the defendant appeared to you on
4 September 15th, perhaps without the marks on his face?

5 A. Yes, sir.

6 Q. Okay. So it's your testimony to all of us here in
7 court today that you cannot tell that is a black male?

8 A. He's fairly light-skinned.

9 Q. Officer Blair, earlier you saw some exhibits that
10 were offered to you by the prosecution, photographs of the
11 defendant on the night --

12 MR. HEMMINGER: Permission to approach the
13 witness, Your Honor?

14 THE COURT: Yes.

15 BY MR. HEMMINGER:

16 Q. I'm going to hand you what I've just marked as
17 Defendant's Exhibit 6. Do you recognize
18 Defendant's Exhibit 6?

19 A. Yes, sir.

20 Q. Okay. What do you recognize the contents of that
21 photograph to be?

22 A. It is the defendant standing next to the cruiser.

23 Q. Okay. What article of clothing is he wearing?

24 A. A white t-shirt.

25 Q. Okay. He's wearing a white t-shirt?

1 A. Okay.

2 Q. What other article of clothing is he wearing?

3 A. Gray sweat pants.

4 Q. Are they pants?

5 A. In the picture it's hard to tell. If I do recall,
6 they are shorts.

7 Q. You do recall that they are shorts?

8 A. Yes, sir.

9 Q. Okay. I'll go ahead and hand this back to you.
10 Once again, I want to be clear, your testimony is
11 that, as depicted in Defendant's Exhibit 5 and
12 Defendant's Exhibit 6, you do not believe this to be a black
13 male?

14 A. I don't recognize the race. He could be mixed.
15 He's -- he is fairly light-skinned.

16 Q. What do you mean you don't recognize the race?

17 A. He could be mixed with anything. I mean, doesn't
18 necessarily mean he's black.

19 Q. Is the person identified in Exhibit 5 and
20 Exhibit 6, would you categorize them as a white male?

21 A. He could be, depending on what he identified
22 himself as.

23 Q. You, Officer Blair, with your observations when
24 you approached the defendant in his vehicle on
25 September 15th on Harris Avenue, did you identify him as a

GB000220

1 white male?

2 A. Yes, sir.

3 Q. Is it your testimony that you did not hear, as
4 dispatch reported on the audio we listened to, that the
5 suspects were back inside the building?

6 A. I do not recall hearing that at the time, sir. At
7 that time I would have been pulling up. When this was
8 dispatched, I was moments away from the location. So I
9 would have been exiting my vehicle and telling the defendant
10 to stop his vehicle at that time.

11 Q. When did you report the letters and numbers of
12 defendant's license plate?

13 A. As I was walking towards the vehicle. It was
14 fairly simultaneous with what's going on.

15 Q. And when you -- when you approach the location,
16 you approached in the alley behind, did you notice a loading
17 area behind the building, a parking lot of some sort?

18 A. Yes, sir.

19 Q. Okay. Did you stop in that parking lot?

20 A. What do you mean?

21 Q. Did you stop your cruiser? Did you just continue
22 to go to Harris?

23 A. No. I was half -- I was still half in the alley
24 where I was coming from because Harris was northbound only.

25 Q. When you ran his license plate or informed

1 dispatch what the letters and numbers of his license plate
2 were, were you still inside of your cruiser?

3 A. No. I would have been walking towards the
4 vehicle.

5 Q. Okay. When you pulled out of the alley, you
6 pulled out in front of defendant's vehicle, correct?

7 A. Yes, sir.

8 Q. You cut him off. He was moving at the time,
9 correct?

10 A. Initially, no. When I pulled up, was still
11 parked, and when I exited my cruiser, that's what he started
12 to pull away slowly. I did not pull my cruiser all the way
13 to the street because it was northbound only. I did not
14 want to pull past where a parked car would have been so I
15 did not block the street.

16 Q. And your testimony is that you did not activate
17 your beacons or overhead lights, correct?

18 A. Correct.

19 Q. You also stated earlier it was technically a
20 traffic stop, correct?

21 A. Not a traditional traffic stop, no, sir.

22 Q. But you said it was technically a traffic stop,
23 correct?

24 A. Based on the fact that I was detaining him and he
25 was in the vehicle, in a way.

1 Q. You did not witness the defendant commit a traffic
2 violation, though, correct?

3 A. Not that I was looking for at that time. I was
4 not focused on that.

5 Q. Okay. So you don't activate your overhead lights.
6 You pull out the wrong way onto a one-way street, you exit
7 your car, and you verbally tell the defendant to stop and
8 you tap on his hood, correct?

9 A. Yes, sir.

10 Q. And the defendant stops, correct?

11 A. Yes, sir.

12 Q. And you approach the driver's side of defendant's
13 vehicle, correct?

14 A. Yes, sir.

15 Q. And you engage in a conversation with the
16 defendant, correct?

17 A. Yes, sir.

18 Q. And you tell him why you've stopped his vehicle?

19 A. Yes, sir.

20 Q. What do you tell him?

21 A. He had asked why he was stopped. I told him I was
22 investigating a possible burglary.

23 Q. Your testimony is that you told him immediately?

24 A. No, sir. He didn't ask me --

25 Q. At what point --

1 A. Where? You asked when I told him. When he asked
2 me, I said I was there to investigate a possible burglary.

3 Q. When you approached the defendant you asked him
4 for his I.D.; isn't that correct?

5 A. Yes, sir.

6 Q. And the defendant asked you why you stopped his
7 vehicle; isn't that correct?

8 A. Yes, sir.

9 Q. And you told the defendant, I don't know, but
10 we're about to find out; isn't that correct?

11 A. I don't know if that is supposed to be a quote.
12 Are you quoting me? I'm not sure what --

13 Q. I believe I am, but it's something close to that
14 effect, correct?

15 A. I told him I was investigating a possible
16 burglary.

17 Q. Now wait a minute. Earlier you said the purpose
18 of this stop is you wanted to delay the defendant, you
19 wanted other officers to arrive on-scene.

20 A. Yes, sir.

21 Q. You testified that the purpose was to delay,
22 correct?

23 A. Yes, sir.

24 Q. And now you are telling us that you immediately
25 told him you're investigating a burglary?

1 A. I never said I immediately told him, sir.

2 Q. The defendant provided you with his name, correct?

3 A. I don't recall if he said his name when I asked
4 for his identification.

5 Q. You asked the defendant for his identification,
6 and he did not immediately give you his license, correct?

7 A. Correct.

8 Q. He instead wanted to know the reason you had
9 stopped him, correct?

10 A. Correct.

11 Q. He eventually did give you his license, correct?

12 A. Eventually, yes.

13 Q. Eventually, yes.

14 And you ordered the defendant to turn off his
15 vehicle, correct?

16 A. I do not recall if I did or not, to be honest.

17 Q. Did the defendant turn off his vehicle?

18 A. I do not recall.

19 Q. You don't recall if the truck was running?

20 A. I was 'up by the passenger door, I don't remember
21 if it was still running or not, if the engine was on or not.

22 Q. Isn't that something that would be brought to your
23 attention, is the vehicle running?

24 A. I knew he wasn't driving away.

25 Q. Well, you're so concerned about officer safety,

1 wouldn't you want him not to drive away?

2 A. I was not in front of his vehicle. I was in no
3 danger of being run over.

4 Q. Is his vehicle parked?

5 A. It is stopped. I believe it was in park.

6 Q. Other officers arrived on-scene, and you asked the
7 defendant to exit his vehicle, correct?

8 A. Yes, sir.

9 Q. I believe your testimony earlier was you opened
10 the door and said, Do you want to step out?

11 A. I never asked him if he wanted to step out..

12 Q. I'll have the court reporter read back your
13 testimony earlier.

14 A. I don't recall saying that. I told -- He was
15 ordered to step out. He was being detained.

16 Q. He was being detained. Was he under arrest?

17 A. No, sir.

18 Q. You wrote him a traffic ticket?

19 A. No, sir.

20 Q. You had no evidence that the defendant was related
21 to this burglary, and he was being detained, correct?

22 A. I was trying to get the evidence I needed.

23 Q. But you had no evidence?

24 A. I needed to get him separated from the front seat
25 passenger to do that.

1 Q. What evidence did you believe you were going to
2 get?

3 A. I speak with him, see if there was property in the
4 vehicle that belonged to the building. I have a witness
5 come and identify him.

6 Q. All of which you were never able to obtain,
7 correct?

8 A. At what point?

9 Q. You were never able to obtain any evidence that he
10 was related to the burglary, correct?

11 A. No, sir.

12 Q. Okay. Earlier, I believe your testimony was you
13 were never able to tie him to the burglary.

14 A. Correct.

15 Q. Okay. Do you recall in your report that the
16 report stated you were able to determine he was unrelated to
17 the burglary?

18 A. For what we had at that time, yes.

19 Q. Okay. When you told the defendant that you were
20 investigating a burglary, the defendant said, Well, I'm not
21 a burglar, run my information, correct?

22 A. I don't -- Again, the quotes, I don't know. But I
23 don't remember him -- he never said, Run my information.

24 Q. Okay. I'm recalling your testimony earlier. The
25 defendant said, I'm not a burglar?

1 A. He said he wasn't involved in a burglary.

2 Q. Wasn't involved in a burglary. You remember that
3 detail, don't you?

4 A. It's -- I'm not sure where you're going with --

5 Q. You just testified when the prosecutor was asking
6 you at the end of your testimony that your intention was to
7 have a smooth investigation and that defendant delayed your
8 response?

9 A. Yes, sir. I was still unable to secure the
10 building because I was busy with him.

11 Q. But earlier you testified that the purpose in
12 detaining the defendant was to delay him until other
13 officers would arrive?

14 A. Delay him in the way of I didn't immediately pull
15 him out of the vehicle. I still wanted him detained because
16 I still believed he could have some part in the burglary.
17 So the delaying was waiting for other officers to come up
18 and help me detain him.

19 Q. In the video that we watched, your cruiser was
20 parked head to head with defendant's truck, correct?

21 A. I was north of his location, but not head to head.

22 Q. Okay. It's in front of it?

23 A. Yes, sir.

24 Q. And there are two more cruisers parked immediately
25 behind the defendant?

1 A. Yes, sir.

2 Q. And another vehicle, the wagon, which had the
3 video in it pulled up on scene, correct?

4 A. Correct.

5 Q. Isn't it true that the defendant wasn't going
6 anywhere at this point in time?

7 A. He still had the ability to drive around to
8 keep -- continue northbound if he had been driving.

9 Q. So he's surrounded by police. And you believe,
10 although he's never made an effort to take off, that he
11 might go around your cruiser and take off?

12 A. Initially when I pulled up, he saw my cruiser and
13 began to pull away.

14 Q. Okay. You didn't have your overheads on. You
15 didn't activate your beacon lights?

16 A. I was staying in the roadway.

17 Q. Well, and the defendant did stop?

18 A. Then when I was standing next to him and asked for
19 his identification, he was not truthful about not having it.

20 Q. Truth is, if the defendant stayed in his vehicle,
21 it would not have impeded or hampered your investigation of
22 the burglary, correct?

23 A. I needed to separate him from the witness and from
24 the vehicle to see if there was, you know, any large items
25 from the building in his truck.

1 Q. Well, he already was separated from the witness,
2 correct?

3 A. The witness was pulled from the vehicle. I needed
4 to separate him from his vehicle.

5 Q. Why would you need to separate him from his
6 vehicle?

7 A. Well, to -- there was a witness, which I hadn't
8 been able to find yet, but I would have had to have the
9 witness identify him outside of his vehicle.

10 Q. A witness could have identified him while he was
11 sitting in his vehicle?

12 A. The witness never saw him in a vehicle, so I would
13 need him out of the vehicle.

14 Q. To identify him as white male, correct?

15 A. Whatever, possibly.

16 Q. Truth is, you had no information that matched the
17 physical description of the defendant to the physical
18 description of the suspects, correct?

19 A. At the time I believed I did. I had a -- Like I
20 said, I had a male driver, I had the female. I believed I
21 had possible suspects at the time, yes.

22 Q. Male/female, that's it.

23 A. The color of the shirt. Like I said, the
24 descriptions are often wrong. I have them directly next to
25 the building where they said they were unloading property

1 from to a vehicle. They were right there at the exact same
2 time. I was in the alley when this was going on. I
3 absolutely believed they were -- had potential involvement
4 in the burglary.

5 Q. Although the defendant told you he had nothing to
6 do with the burglary, right?

7 A. Yes, sir.

8 Q. And at the end of your investigation, you have
9 absolutely no evidence that you're able to relate the
10 defendant to this burglary, correct?

11 A. Correct.

12 Q. And in hindsight, you have no evidence that the
13 defendant purposefully interfered with your investigation of
14 a burglary, correct?

15 A. I do believe he did interfere with my
16 investigation.

17 Q. You believe he interfered with the investigation
18 of your burglary?

19 A. Yes, sir. He absolutely delayed my response to
20 investigating the burglary.

21 Q. He delayed the response to you stopping his
22 vehicle without cause to do so, correct?

23 A. I believed I had cause to stop his vehicle.

24 Q. But it was a traffic stop, correct?

25 A. Not necessarily. It was -- I was detaining him,

1 and he was in his vehicle.

2 Q. So it's not a traffic stop, that's your testimony
3 now?

4 A. It's not a traditional traffic stop, like I said
5 earlier.

6 Q. Okay. If you approach somebody on the street,
7 what information are they required to provide you?

8 A. That depends.

9 Q. Are you familiar with the Revised Code Section
10 292.129, failure to disclose personal information?

11 MR. STEINBERG: Can we approach?

12 THE COURT: Yes.

13

- - -

14 The following discussion was held at the bench,
15 out of the hearing of the jury:

16 MR. STEINBERG: So at this point, I believe that
17 defense counsel is asking questions that are ultimately
18 irrelevant, but there is also no foundation.

19 THE COURT: Foundation issues.

20 MR. HEMMINGER: I just asked her what information
21 is an individual on the street required to provide you. Her
22 answer was, Depends.

23 THE COURT: And it does, doesn't it? I mean, it
24 truly does. All lawyers know that. My suggestion would be,
25 if you want to, this is an optional question, And you've

1 been dispatched to a burglary run, and you believe there may
2 be some connection with a person you identified on-scene,
3 what information do they have to disclose to you. You could
4 ask that, but you're stuck with the answer.

5 MR. HEMMINGER: Yeah.

6 THE COURT: So I agree that there's not enough
7 foundation. It is a complex area of law, and you may not
8 want, you know, a police officer, especially this police
9 officer who is the prosecution's key witness, to provide
10 that information about what the law is in that circumstance.

11 MR. HEMMINGER: Okay.

12 - - -

13 THE COURT: Ladies and gentlemen, I struck part of
14 the question that referred to such and such section of the
15 revised code, and Mr. Hemminger, I think is going to proceed
16 with another -- with some other questions.

17 Go ahead.

18 BY MR. HEMMINGER:

19 Q. Once the other officers arrived on-scene,
20 defendant eventually began to exit his vehicle, correct?

21 A. Partially, yes.

22 Q. Defendant began to exit his vehicle, correct?

23 A. When we requested him to step out of his vehicle,
24 he put one leg out of his vehicle, and then when he
25 hesitated, he would not come any further.

1 Q. You testified earlier that defendant was wearing a
2 white t-shirt and shorts, correct?

3 A. Yes, sir.

4 Q. You've seen photographs of the defendant wearing
5 those clothes, correct?

6 A. Yes, sir.

7 Q. Were you able to tell at that time if the
8 defendant had any weapons on him?

9 A. No, sir.

10 Q. Did you see any guns or large knives on the
11 defendant?

12 A. From what I could see -- from what I could see,
13 no, but I could not see all of them.

14 Q. It wasn't necessary to pry his hand off the bar,
15 was it?

16 A. Yes, sir, he would not let go.

17 Q. But he's got one foot off the ground?

18 A. Yes, sir.

19 Q. Well, he wasn't going anywhere, correct?

20 A. He was trying to get back into his vehicle.

21 Q. While you detained the defendant, you did not go
22 inside and check the building for the suspects, correct?

23 A. I had not had the opportunity yet, no, sir.

24 Q. Okay. However, eventually the burglary
25 investigation was concluded, correct?

1 A. Yes, sir.

2 Q. And it was concluded that, in fact, there was no
3 burglary, correct?

4 A. There was a breaking and entering in the building.
5 It ended up being vacant. There was a female that we did
6 pull out of the building, yes. She exited the door that was
7 directly next to the defendant's truck.

8 MR. HEMMINGER: One moment, Your Honor.

9 THE COURT: Uh-huh.

10 BY MR. HEMMINGER:

11 Q. You testified earlier that the safest way for them
12 and us is to remove the defendant from the vehicle, correct?

13 A. Yes, sir.

14 Q. Wouldn't it be safer for the defendant to stay
15 inside of his vehicle?

16 A. No, sir.

17 Q. No? It would not be safer for the defendant to
18 remain inside his vehicle, the defendant?

19 A. I believe the potential that there would be
20 weapons in the vehicle --

21 Q. You stated earlier that you and the other officers
22 grabbed his arms and tried to guide him out of the vehicle,
23 correct?

24 A. Officer Groves, yes.

25 Q. Officer Groves grabbed his arm and tried to --

1 A. Guide him out of the vehicle.

2 Q. -- guide him out of the vehicle. Okay.

3 Does Officer Groves reach into the cab of the
4 truck?

5 A. He didn't have to reach into the cab. We were in
6 the doorjamb. It was the defendant's left arm.

7 Q. He reaches in and he pulls the defendant out of
8 the vehicle?

9 A. No, sir. When he first made contact with him, he
10 merely touched his left arm.

11 Q. The defendant is pulled out, you pried his hands
12 off the door. You have got one arm, Groves has got another,
13 correct?

14 A. No. The defendant -- Officer Groves had a hold of
15 his left arm. When the defendant pulled back and grabbed on
16 the handle, that's when Officer Groves began pulling on the
17 defendant's arm to pull him out. That's when I began
18 pulling on Mr. -- the defendant's fingers to get his right
19 hand off of the handle to separate him from the truck.

20 Q. So he's separated from the truck and then
21 there's -- I believe you said a double leg takedown was the
22 move?

23 A. Yes, sir.

24 Q. Okay. And defendant is on the ground?

25 A. Yes, sir.

GB000236

- 1 Q. Okay. And defendant was Maced?
- 2 A. Yes, sir.
- 3 Q. Correct?
- 4 A. Yes, sir.
- 5 Q. Defendant was handcuffed?
- 6 A. Yes, sir.
- 7 Q. Defendant was bleeding?
- 8 A. He did have some abrasions on his face and his
- 9 knee.
- 10 Q. And it was Officer Groves who deployed the Mace,
- 11 correct?
- 12 A. Yes, sir.
- 13 Q. And this was the safest way for the defendant to
- 14 exit the vehicle, correct?
- 15 A. Yes, sir.
- 16 Q. Safe for who?
- 17 A. We used the least amount of force possible to
- 18 detain him.
- 19 Q. That was a small amount of force?
- 20 A. I believe so, yes, sir. He was not complying with
- 21 any verbal commands. He was, at the time, overpowering both
- 22 of us. And he was warned that he would be Maced if he
- 23 didn't comply. And he didn't comply, and he was Maced.
- 24 Q. So let's go back. He didn't comply with any
- 25 verbal commands? You told him to stop his vehicle, and he

1 stopped his vehicle, correct?

2 A. After hesitation, yes.

3 Q. Sure, after hesitation. You didn't activate your
4 overhead lights. You eventually have to get out of your
5 vehicle. You actually flag him down, tap on his hood, tell
6 him to stop, and he stops his vehicle, correct?

7 A. Yes, sir. After rolling forward a few feet, yes,
8 he did stop.

9 Q. Correct?

10 A. Yes, sir.

11 Q. Okay. Once his vehicle is stopped, you engage in
12 a conversation with him, correct?

13 A. Yes, sir.

14 Q. And perhaps he's reluctant at first because he
15 wants answers, but eventually he gives you his I.D.,
16 correct?

17 A. Yes, sir. He told me he didn't have it, then he
18 did produce it.

19 Q. Okay. So he eventually did produce you with his
20 I.D., correct?

21 A. Yes, sir.

22 Q. And his vehicle was -- Well, we know it was parked
23 because when he was pulled outside of his vehicle, the
24 vehicle didn't exactly take off, did it?

25 A. No, sir.

1 Q. So his vehicle was parked, correct?

2 A. It was in park, yes.

3 Q. The engine may or may not be running, according to
4 your recollection, correct?

5 A. Correct.

6 Q. He is ordered out of his vehicle, and although he
7 may be reluctant at first, he eventually begins to exit his
8 vehicle, correct?

9 A. Yes, sir.

10 Q. Truth is, the defendant has complied with your
11 verbal requests, correct?

12 A. With coaxing, yes.

13 Q. You were able to complete your burglary
14 investigation, correct?

15 A. Yes, sir.

16 MR. HEMMINGER: No further questions.

17 THE COURT: Counsel, approach just a moment.

18 - - -

19 The following discussion was held at the bench out
20 of the hearing of the jury:

21 THE COURT: I want to know whether we should take
22 our break now or whether redirect and recross can be real
23 quick.

24 MR. STEINBERG: There's a limited set of further
25 questions with our witness, but I think we all need a break.

1

- - -

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

THE COURT: So Ms. McCool is going to take you out. We will be out until, like, five after 4:00. Okay. So you can use the bathroom. You can stretch a bit. And -- Please go out with her.

We're in the middle of a witness' testimony, so no discussing the case among yourselves, allowing anyone to discuss it with you.

- - -

Thereupon, court was in recess.

- - -

THE COURT: Welcome back. Please be seated. Nice little break. Seems appropriate that I tell you another one of my jokes, then we'll get back and finish the testimony of Officer Blair.

This is a true story about a trial, robbery trial. Gun, hold-up guy trying to steal somebody's money, and it was a robbery trial. And about day two, three in the trial, and the defendant turned to his attorney and says, I want a new judge. That judge is prejudice against me. I want this to end right now. I want a new judge. And the defense attorney thinks things are going well, kind of goes, Well, why do you think the judge is prejudice against you? He said, Well, I don't know if you know this, but every time that jury takes a break, the judge looks at them and says,

GB000240

1 Remember ammunition, remember the ammunition in the gun.
2 And so, I think he's trying to tell them, you know, that I
3 had the ammunition. Well, the admonition of, don't discuss
4 this case among yourselves and keep an open mind free of
5 bias or prejudice, I feel very bad that I didn't say that as
6 soon as you stood up to take your break because it's so
7 important. We're not even finished with testimony of our
8 first witness, and we're going to go back and finish that up
9 with redirect.

10 Mr. Steinberg.

11 MR. STEINBERG: Thank you.

12

- - -

13

REDIRECT EXAMINATION

14 BY MR. STEINBERG:

15 Q. So Officer Blair, do you remember on cross you
16 made a statement about the fact that the dispatch and all
17 this is going on in your ear?

18 A. Yes, sir.

19 Q. Okay. How is that?

20 A. In what way?

21 Q. How is it -- Physically, how does that work? How
22 is the dispatch always --

23 A. I had a walkie mike on my shoulder, and it is
24 always -- there's always noise, but, you know, if things
25 around me are louder than my radio, I may not hear it at

GB000241

1 all, may not hear it clearly. We're trying to get important
2 information, obviously, and that's what you use to
3 communicate with the dispatcher.

4 Q. The dispatcher's job is to do what?

5 A. Relay information to me.

6 Q. Okay. And also, do what?

7 A. And give it -- take the information that I give
8 her.

9 Q. What else? How do you decide where to go?

10 A. She provided the dispatch location. She gave me
11 all the -- she was reading -- translating from what the
12 original caller gave to what that dispatcher wrote up to
13 what she is now providing me.

14 Q. And how fast is she doing this?

15 A. She does it quickly.

16 Q. And what are you doing while this person's
17 chirping in your ear?

18 A. I'm driving to the location. You know, I'm trying
19 to figure out exactly where I am, make sure I'm in the right
20 area, that's why I asked the cross streets. Then I pull up
21 and I see potential suspects and try to detain them at the
22 same time.

23 Q. When you got to that scene, who were the human
24 beings that you saw?

25 A. I saw the defendant in the driver's seat and the

1 female charge in the truck.

2 Q. Any other human beings that you saw immediately at
3 that point?

4 A. At that point, no.

5 Q. Okay. And had you heard the 9-1-1 call
6 specifically?

7 A. No, sir.

8 Q. Okay. When you heard it today, was that the first
9 time you heard it?

10 A. Yes, sir.

11 Q. You called in the plates, correct?

12 A. Yes, sir.

13 Q. And do you remember defense counsel asking you why
14 you called in the plates?

15 A. Yes, sir.

16 Q. Do you remember defense counsel asking what the
17 plates tell you?

18 A. Yes, sir.

19 Q. Okay. What is it that plates tell you?

20 A. The plate tells me the registered owner of the
21 vehicle.

22 Q. Does it tell you the registered owner of the
23 vehicle or registered owner of the plate?

24 A. Of the plate.

25 Q. Have you ever come across a situation where the

1 plates are registered to one person and the vehicle is
2 registered to somebody else?

3 A. Yes.

4 Q. How often in your job does that happen?

5 A. That happens often.

6 Q. Okay. Did the plates tell you who is in the
7 vehicle?

8 A. Absolutely not.

9 Q. Defense counsel asked you about whether you saw a
10 male and female who matched the description you were
11 getting.

12 A. Yes, sir.

13 Q. Did you?

14 A. To my knowledge, at the time, yes.

15 Q. Okay. And that male and female, the defendant and
16 this woman, were they right at the scene?

17 A. Yes, sir.

18 Q. Okay. Anybody else at that scene?

19 A. Not that I saw.

20 Q. Defense counsel asked you about whether this was a
21 traffic stop. You've never contended that this is a traffic
22 stop, right?

23 A. No, sir.

24 Q. Okay. And defense counsel told you, Hey, my
25 client stopped. You remember him saying it like that?

1 A. Yes, sir.

2 Q. Okay. How many times did you have to command the
3 defendant to stop before he actually stopped?

4 A. At least three.

5 Q. Defense counsel asked you about your purpose to
6 delay the defendant. Do you remember those questions?

7 A. Yes, sir.

8 Q. Now, if we talk about strategy and tactics, are
9 you with me?

10 A. Yes, sir.

11 Q. Okay. You're overall strategy, that's the
12 overarching scheme, your strategy was to do what?

13 A. Investigate the burglary.

14 Q. And the tactics you used to do that would include
15 keeping the defendant at the scene, right?

16 A. Yes, sir.

17 Q. So you could do what?

18 A. Investigate the burglary.

19 Q. Okay. But specifically, then, what tactic would
20 you use with regard to the defendant if you keep him at the
21 scene? Why would you keep him at the scene to investigate
22 the burglary?

23 A. I would detain him to determine if he was involved
24 in the burglary.

25 Q. By doing what, talking to him?

1 A. Talking to him, talking with witnesses, looking at
2 the evidence, you know, if there was property from, you
3 know, the building, you know, whatever he would have,
4 potentially; tools on him that would have allowed him to get
5 in the building.

6 Q. Now, defense counsel asked you about the position
7 of your automobile.

8 A. Yes, sir.

9 Q. What was the position of your automobile? I guess
10 I prefer the term cruiser. What was the position of your
11 cruiser with regard to his truck?

12 A. I was north of his location, I wasn't facing him.
13 I was from -- coming eastbound from the alley. He was
14 facing northbound. I was somewhat canted towards his
15 direction (indicating).

16 Q. And you just did a shake with your hands, and I
17 want to preserve it for our record to just tell us how you
18 manipulated your hands. You've shown it to us, but I just
19 need it for our record.

20 A. His truck was facing northbound, and I was coming
21 eastbound from the alley, and I had canted my vehicle
22 southbound. Like I said, I didn't want to turn all the way
23 into the northbound-only lane.

24 Q. Is it fair to say that you just held up your right
25 hand, right hand, and that was perpendicular to your body?

1 A. Correct.

2 Q. And then you canted your left hand at it?

3 A. Yes.

4 Q. Is that -- Did I get the hands right?

5 A. Yes.

6 Q. Okay. All right. Thank you.

7 Why did you want the defendant out of the vehicle?

8 A. To -- Like I said, to further investigate him; to
9 separate him from the witness; to have a potential witness,
10 you know, positively or negatively identify him as being
11 involved; to determine if he had any weapons on him or in
12 the vehicle, you know. I don't want to investigate someone
13 who is involved in a possible felony who is sitting in a
14 vehicle who could potentially have a weapon right there.
15 You know, I don't know what's in the vehicle.

16 Q. Defense counsel questioned you about the idea that
17 the defendant was actually exiting his car. Was he exiting
18 his car?

19 A. No, not really.

20 Q. Okay. Explain.

21 A. When I asked him to exit, he was, like I said,
22 hesitant to get out. And then I said, No, you need to get
23 out of the vehicle. When he stepped out, he only had part
24 of his body out. His left leg was on the ground, but he was
25 still partially in the vehicle.

1 Q. And when Officer Groves went to maneuver him, did
2 he continue to exit?

3 A. No.

4 Q. Okay.

5 A. He immediately stopped and pulled back towards the
6 truck.

7 Q. Okay.

8 Defense counsel asked you about the idea of
9 whether or not the defendant was safer inside his vehicle or
10 outside his vehicle. Why is the defendant safer when you're
11 dealing with him as a police officer outside the vehicle?

12 A. The chance he would have access to a weapon; if he
13 were to reach for that weapon, that would obviously change
14 the course of direction.

15 Q. Is it safer for him if you're going to detain him,
16 if you know that he doesn't have weapons?

17 A. Yes, sir.

18 Q. Okay. If he's in his vehicle before you secured
19 that vehicle, do you know whether he has weapons?

20 A. No, sir.

21 Q. Okay. Defense counsel asked you some questions
22 about your perception of defendant's race. You remember
23 those questions?

24 A. Yes, sir.

25 Q. Fair to say race is a complicated issue in our

1 society?

2 A. Yes.

3 Q. And when you have to make an identification, is
4 race given to you -- why is race given to you?

5 A. It could -- You know, it's like any other
6 descriptor, brown hair, blond hair. It could potentially
7 give me, you know, what they may look like.

8 Q. Okay. As an example, you're going to get --
9 you're going to give a description of me, to air a
10 description of me; are you going to air what you think my
11 ethnicity is, or are you going to assume my race is --

12 A. I would air what I believe your race would be.

13 Q. For what purpose?

14 A. It could -- You know, if I say you're a male,
15 white, it could, you know, tell somebody else who is hearing
16 the description that you have light skin.

17 Q. Okay.

18 MR. STEINBERG: Your Honor, may I approach the
19 witness?

20 THE COURT: Yes, you may.

21 BY MR. STEINBERG:

22 Q. I'm going to show you what we marked as
23 Plaintiff's Exhibit J.

24 MR. HEMMINGER: Your Honor, I'm going to object to
25 this.

1 MR. STEINBERG: Can we approach?

2 THE COURT: Yeah.

3 - - -

4 The following discussion was held at the bench,
5 out of the hearing of the jury:

6 THE COURT: Before you start, let me see what --
7 Just going to use the race part?

8 MR. STEINBERG: Yes.

9 THE COURT: Your objection?

10 MR. HEMMINGER: It's inadmissible. It's just the
11 police report. It's hearsay. I don't know who has filled
12 it out. I understand that it's not being used for the
13 purpose of -- to refresh her recollection or anything of
14 that nature. If the document itself can't be used --

15 MR. STEINBERG: I understand defense counsel's
16 concern. Here's my response: I don't -- There's this
17 contention that the defendant, who is African American,
18 should be perceived as African American. And this officer
19 is going to testify she filled this out, I believe.

20 THE COURT: She did?

21 MR. STEINBERG: I can ask her beforehand. I
22 believe she did. To be fair, I haven't asked her.

23 THE COURT: Okay.

24 MR. STEINBERG: If we assume she answers, Yes, I
25 did fill this out, I'm just going to ask her what she filled

1 out in terms of race. It is not my intention to admit this.

2 THE COURT: No.

3 MR. STEINBERG: But I want her to identify it,
4 talk about whether she filled it out, what she filled out,
5 because I think it goes to her perception of the defendant.
6 That is, specifically, because there's been this back and
7 forth about what the dispatch was and then how she responded
8 to it.

9 THE COURT: I think that's proper. I think that's
10 proper.

11 MR. HEMMINGER: I don't think it's proper.

12 THE COURT: And the reason being? It doesn't have
13 to be admitted, but if she filled it out, that -- that is a
14 proper response.

15 MR. HEMMINGER: If it's not an exhibit, then it's
16 not being admitted into evidence; then there's no purpose
17 for it. It has to be used for a purpose.

18 THE COURT: You can, lots of times, use something
19 that is not going to be offered.

20 MR. STEINBERG: I'm more than happy also --

21 MR. HEMMINGER: Offered for what purpose?

22 MR. STEINBERG: I'm also more than happy to admit
23 it with the back side redacted to demonstrate that she did
24 it, because then it wouldn't have anything --

25 THE COURT: I'm going to allow it, assuming she

1 filled that out. If she didn't, that's a whole different
2 story.

3 MR. STEINBERG: Yeah. I want her to look at it.
4 If she says, No -- My assumption is she will say yes, but I
5 don't obviously know.

6

7 MR. STEINBERG: Officer Blair, I've handed you
8 what we've marked as Plaintiff's Exhibit J.

9 What is Plaintiff's Exhibit J?

10 A. That is part of the U-10.100.

11 Q. Who is the author of Plaintiff's Exhibit A?

12 A. I am.

13 Q. Okay. Does that mean that you filled out
14 everything in Plaintiff's Exhibit A?

15 A. Yes, sir.

16 Q. At the top of Plaintiff's Exhibit A, are there
17 identifying information --

18 A. Yes, sir.

19 Q. -- box -- Are there identifying information boxes?
20 Okay. And would you have filled those out?

21 A. Yes, sir.

22 Q. And did you fill out the defendant's name?

23 A. Yes, sir.

24 Q. How did you get the defendant's name?

25 A. The license I was provided.

1 Q. Okay. Did you fill out the defendant's birthday?

2 A. Yes, sir.

3 Q. Okay. Did you fill out identifying information
4 about the defendant's height and weight?

5 A. Yes, sir.

6 Q. Okay. Did you fill out identifying information
7 about the defendant's gender?

8 A. Yes, sir.

9 Q. Okay. And let's talk about that really quickly.
10 Did you make a decision or do you have to rely on the
11 license to decide what his gender is?

12 A. Both.

13 Q. Okay. All right.

14 Did you have a preconceived notion before you
15 looked at the license about what his gender was?

16 A. Yes, I believed he was a male.

17 Q. Did you also fill out where it says race?

18 A. Yes, sir.

19 Q. What did you fill out?

20 A. White.

21 Q. Okay.

22 MR. STEINBERG: If I could see that back.

23 Thank you.

24 Your Honor, I do not have any other redirect
25 questions at this time.

1 THE COURT: Thank you very much.

2 Recross, Mr. Hemminger?

3 MR. HEMMINGER: Thank you, Your Honor.

4 - - -

5 RECROSS-EXAMINATION

6 BY MR. HEMMINGER:

7 Q. Officer Blair, I believe the testimony was that
8 dispatch is always going on, correct?

9 A. Yes, sir.

10 Q. It's important that you pay attention to dispatch,
11 isn't it?

12 A. Yes, sir.

13 Q. They tell you where to go?

14 A. Yes, sir.

15 Q. They tell you why to go certain locations?

16 A. Yes, sir.

17 Q. They give you description of individuals that
18 you're looking for, correct?

19 A. Yes, sir.

20 Q. In fact, you were listening to dispatch and at one
21 point you asked dispatch to repeat the cross streets,
22 correct?

23 A. Yes, sir.

24 Q. Upon obtaining the defendant, did you have
25 dispatch repeat the description of the suspects?

1 A. No, sir. I was pulling up.

2 Q. I'm sorry. No, sir, what?

3 A. No, sir. I was pulling up. This was a very, like
4 I said, simultaneous situation that was --

5 Q. But you have -- you have like a portable device on
6 you?

7 A. Yes, sir.

8 Q. You can talk to dispatch, right?

9 A. Yes, sir.

10 Q. So as you're standing at defendant's driver-side
11 window, did you ask dispatch to repeat the description of
12 the suspects?

13 A. No, sir.

14 Q. You never asked defendant if he had a weapon on
15 him, did you?

16 A. I do not recall, sir.

17 Q. While you're at defendant's vehicle, you did
18 not -- you did not check his record or his driver's license,
19 correct?

20 A. I don't have the ability, standing there.

21 Q. Can you ask dispatch to do that?

22 A. Yes, but I'm also waiting for other officers to
23 respond; I want to leave the air open.

24 Q. But all you had to do was ask dispatch to identify
25 the defendant, right, run his license, run his record?

1 A. I could have asked her for the registered owner of
2 the license plate I provided her. Once I did obtain the
3 driver's license, I could have asked her for the information
4 on the license, but she would not have right there checked
5 for warrants, et cetera.

6 Q. She could have told you the race of the suspect,
7 correct?

8 A. She would have read what was on the license.

9 MR. HEMMINGER: I have no further questions.

10 THE COURT: Thank you very much. Thank you.
11 Well, it's been a long day, you are excused from the witness
12 stand. I think you're excused from court today.

13 Prosecution, would you like -- Do you want her to
14 wait?

15 MR. STEINBERG: Can you come here for a second?

16 MR. BENNINGTON: May we approach, Your Honor?

17 THE COURT: Yes. Just come up right here.

18 - - -

19 Thereupon, a discussion was held at the bench, out
20 of the hearing of the jury and the court reporter.

21 - - -

22 THE COURT: I don't think judges should wear black
23 robes up here. One of the big challenges is where they
24 schedule everything, like, the last day because that's
25 what's been going crazy with this trial.